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19 Attorneys for Defendants

20 ENCORE CAPITAL GROUP, INC., MIDLAND FUNDING, LLC; and MIDLAND CREDIT
21 MANAGEMENT, INC.

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23 **UNITED STATES DISTRICT COURT**
24
25 **SOUTHERN DISTRICT OF CALIFORNIA**

26 IN RE: MIDLAND CREDIT MANAGEMENT, INC., TELEPHONE CONSUMER
27 PROTECTION ACT LITIGATION

28 Case No. 11-md-2286-MMA (MDD)
Member Cases: 10-cv-02261
10-cv-02600
10-cv-02368
10-cv-02370

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30 **MOTION FOR TIM J. VANDEN HEUVEL
31 AND SONDRA R. LEVINE, OF LEWIS
32 BRISBOIS BISGAARD & SMITH LLP TO
33 WITHDRAW AS CO-COUNSEL OF
34 RECORD FOR DEFENDANTS ENCORE
35 CAPITAL GROUP, INC., MIDLAND
36 FUNDING, LLC; MIDLAND CREDIT
37 MANAGEMENT, INC.; MEMORANDUM
38 OF POINTS AND AUTHORITIES;
39 DECLARATION OF COUNSEL IN
40 SUPPORT THEREOF**

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42 4813-0262-4531.1

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44 11-md-2286-MMA (MDD)

45 MOTION TO WITHDRAW AS CO-COUNSEL OF RECORD FOR DEFENDANTS ENCORE CAPITAL GROUP,
46 INC., MIDLAND FUNDING, LLC; MIDLAND CREDIT MANAGEMENT, INC.; MEMORANDUM OF POINTS
47 AND AUTHORITIES; DECLARATION OF COUNSEL IN SUPPORT THEREOF

TO ALL INTERESTED PARTIES AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that Defendants ENCORE CAPITAL GROUP, INC., MIDLAND FUNDING, LLC; and MIDLAND CREDIT MANAGEMENT, INC. (hereinafter collectively “Defendants”) respectfully request pursuant to Local Rule Civ.L.R.83-3(g)(3) that Tim J. Vanden Heuvel and Sondra R. Levine of the law firm Lewis Brisbois Bisgaard & Smith, LLP, be permitted to withdraw as co-counsel in the present action. Defendants ENCORE CAPITAL GROUP, INC., MIDLAND FUNDING, LLC; and MIDLAND CREDIT MANAGEMENT, INC. will continue to be represented by Attorneys Richard L. Stone and Amy Marshall Gallegos of the law firm Jenner & Block, LLP, and Attorneys William S. Boggs, Edward D. Totino, and Amanda C. Fitzsimmons of the law firm DLA Piper LLP, counsel of record in this action.

DATED: March 20, 2013

LEWIS BRISBOIS BISGAARD & SMITH LLP

By: /s/ Tim J. Vanden Heuvel
Tim J. Vanden Heuvel
Sondra R. Levine
Attorneys for ENCORE CAPITAL GROUP, INC.,
MIDLAND FUNDING, LLC; and MIDLAND
CREDIT MANAGEMENT, INC.

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

3 Defendants ENCORE CAPITAL GROUP, INC., MIDLAND FUNDING, LLC; and
4 MIDLAND CREDIT MANAGEMENT, INC., by this Motion, seek an order of the Court,
5 pursuant to Civ. L.R. 83.3(g)(3), allowing Lewis Brisbois Bisgaard & Smith LLP, and each, every
6 and all of its attorneys, to withdraw as counsel of record for Defendants. Counsel seeks to
7 withdraw from representation with the consent of its clients. Defendants ENCORE CAPITAL
8 GROUP, INC., MIDLAND FUNDING, LLC; and MIDLAND CREDIT MANAGEMENT, INC.
9 will continue to receive adequate representation by the remaining competent attorneys
10 representing Defendants in this action, that is, Attorneys Richard L. Stone and Amy Marshall
11 Gallegos of the law firm Jenner & Block, LLP, and Attorneys William S. Boggs, Edward D.
12 Totino, and Amanda C. Fitzsimmons of the law firm DLA Piper LLP, counsel of record in this
13 action, resulting in no prejudice to Defendants.

14 II. GOOD CAUSE EXISTS TO ALLOW COUNSEL TO WITHDRAW

A. Clients have Consented the Withdrawal

16 Defendants ENCORE CAPITAL GROUP, INC., MIDLAND FUNDING, LLC; and
17 MIDLAND CREDIT MANAGEMENT, INC. have consented to the withdrawal.

B. Adequate Representation Remains

19 Richard L. Stone and Amy Marshall Gallegos of the law firm Jenner & Block, LLP, will
20 continue to provide Defendants with adequate representation during the remainder of the
21 litigation. The attorneys from Jenner & Block, LLP have represented Defendants ENCORE
22 CAPITAL GROUP, INC., MIDLAND FUNDING, LLC; and MIDLAND CREDIT
23 MANAGEMENT, INC. from the outset of this litigation. Defendants ENCORE CAPITAL
24 GROUP, INC., MIDLAND FUNDING, LLC; and MIDLAND CREDIT MANAGEMENT, INC.
25 are also represented by William S. Boggs, Edward D. Totino, and Amanda C. Fitzsimmons of the
26 law firm DLA Piper LLP who appeared on behalf of Defendants' on November 13, 2012. DLA
27 Piper, LLP and its attorneys William S. Boggs, Edward D. Totino, and Amanda C. Fitzsimmons

1 will continue to provide Defendants with adequate representation during the remainder of the
 2 litigation.

3 **III. A WITHDRAWAL WILL NOT CAUSE DELAY OR PREJUDICE**

4 Allowing counsel to withdraw will not cause delay in the defense of this action, nor any
 5 prejudice to Defendants ENCORE CAPITAL GROUP, INC., MIDLAND FUNDING, LLC; and
 6 MIDLAND CREDIT MANAGEMENT, INC. since competent counsel remain to defend this
 7 action. This is not a situation where the client would be left without representation. As Jenner &
 8 Block, LLP has been counsel of record since the outset of the litigation, and DLA Piper LLP also
 9 concurrently represent the Defendants, the withdrawal of counsel should have no impact on the
 10 timeline of the litigation.

11 **IV. CONCLUSION**

12 For all the foregoing reasons, Defendants ENCORE CAPITAL GROUP, INC.,
 13 MIDLAND FUNDING, LLC; and MIDLAND CREDIT MANAGEMENT, INC. respectfully
 14 request that Lewis Brisbois Bisgaard & Smith LLP, and each, every and all of its attorneys, be
 15 allowed to withdraw as counsel of record for Defendants.

16

17 DATED: March 20, 2013

LEWIS BRISBOIS BISGAARD & SMITH LLP

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By: /s/ Tim J. Vanden Heuvel
 20 Tim J. Vanden Heuvel
 21 Sondra R. Levine
 22 Attorneys for ENCORE CAPITAL GROUP, INC.,
 23 MIDLAND FUNDING, LLC; and MIDLAND
 24 CREDIT MANAGEMENT, INC.

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4813-0262-4531.1

11-md-2286-MMA (MDD)

MOTION TO WITHDRAW AS CO-COUNSEL OF RECORD FOR DEFENDANTS ENCORE CAPITAL GROUP, INC., MIDLAND FUNDING, LLC; MIDLAND CREDIT MANAGEMENT, INC.; MEMORANDUM OF POINTS AND AUTHORITIES; DECLARATION OF COUNSEL IN SUPPORT THEREOF

DECLARATION OF TIM J. VANDEN HEUVEL

I, Tim J. Vanden Heuvel, declare and state as follows:

1. I am a partner at the law firm of Lewis Brisbois Bisgaard & Smith LLP (“LBBS”).
I have personal knowledge of the matters set forth below, and if called on to testify as a witness, I
would do so competently.

2. LBBS was retained by Chartis Insurance to appear on behalf of its insured
RE CAPITAL GROUP, INC., MIDLAND FUNDING, LLC; and MIDLAND CREDIT
MANAGEMENT, INC. in the present TCPA action, Case No. 11-md-2286-MMA (MDD).

3. LBBS filed a Notice of Association of Counsel on July 13, 2012. [See Docket
24]. Prior to, and since LBBS appeared as co-counsel for Defendants ENCORE CAPITAL
P, INC., MIDLAND FUNDING, LLC; and MIDLAND CREDIT MANAGEMENT, INC.,
plaintiffs were represented in this action by Richard L. Stone and Amy Marshall Gallegos of the
Jenner & Block, LLP.

4. On or about November 13, 2012 attorneys William S. Boggs, Edward D. Totino, and Amanda C. Fitzsimmons of the law firm DLA Piper LLP filed a Notice of Appearance on behalf of Defendants ENCORE CAPITAL GROUP, INC., MIDLAND FUNDING, LLC; and MIDLAND CREDIT MANAGEMENT, INC. [See Docket Entries 33, 34, and 35].

5. LBBS' withdraw as counsel will not affect the representation of Defendants
ENCORE CAPITAL GROUP, INC., MIDLAND FUNDING, LLC; and MIDLAND CREDIT
MANAGEMENT, INC., who will still be represented by Richard L. Stone and Amy Marshall
Gallegos of the law firm Jenner & Block, LLP, and William S. Boggs, Edward D. Totino, and
Amanda C. Fitzsimmons of the law firm DLA Piper LLP.

6. Defendants ENCORE CAPITAL GROUP, INC., MIDLAND FUNDING, LLC; and MIDLAND CREDIT MANAGEMENT, INC., consent to the withdraw of attorneys Tim J. Vanden Heuvel and Sondra R. Levine, and the law firm of Lewis Brisbois Bisgaard & Smith LLP as co-counsel of records in this matter.

1 7. On March 20, 2013 my office filed the instant motion requesting an order of the
2 Court permitting attorneys Tim J. Vanden Heuvel and Sondra R. Levine, and the law firm of
3 Lewis Brisbois Bisgaard & Smith LLP to withdraw as co-counsel of record in this matter.

4 8. Pursuant to Local Rules Civ. L.R. 83.3(g)(3), my office served a copy of the instant
5 Motion to Withdraw as Co-Counsel on all parties to this litigation by electronic service on March
6 20, 2013. A true and correct copy of the proof of service is attached hereto as Exhibit A.

7 I declare under penalty of perjury under the laws of the United States of America
8 that the foregoing is true and correct, and that I execute this declaration on March 20, 2013 at San
9 Diego, California.

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/s/Tim J. Vanden Heuvel

Tim J. Vanden Heuvel

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4813-0262-4531.1

11-md-2286-MMA (MDD)

MOTION TO WITHDRAW AS CO-COUNSEL OF RECORD FOR DEFENDANTS ENCORE CAPITAL GROUP,
INC., MIDLAND FUNDING, LLC; MIDLAND CREDIT MANAGEMENT, INC.; MEMORANDUM OF POINTS
AND AUTHORITIES; DECLARATION OF COUNSEL IN SUPPORT THEREOF

EXHIBIT “A”

FEDERAL COURT PROOF OF SERVICE

In Re: Midland Credit Management, Inc., Telephone Consumer Protection Act Litigation
U.S.D.C. Southern District Case No. 3:11-md-2286-MMA (MDD)

STATE OF CALIFORNIA, COUNTY OF SAN DIEGO

At the time of service, I was over 18 years of age and not a party to the action. My business address is 701 B Street, Suite 1900, San Diego, CA 92101. I am employed in the office of a member of the bar of this Court at whose direction the service was made.

On March 20, 2013, I served the following document(s):

**MOTION FOR TIM J. VANDEN HEUVEL AND SON德拉 R. LEVINE, OF LEWIS
BRISBOIS BISGAARD & SMITH LLP TO WITHDRAW AS CO-COUNSEL OF RECORD
FOR DEFENDANTS ENCORE CAPITAL GROUP, INC., MIDLAND FUNDING, LLC;
MIDLAND CREDIT MANAGEMENT, INC.; MEMORANDUM OF POINTS AND
AUTHORITIES; DECLARATION OF COUNSEL IN SUPPORT THEREOF**

I served the documents on the following persons at the following addresses (including fax numbers and e-mail addresses, if applicable):

Abbas Kazerounian ak@kazlg.com, abbas.kazerooni@gmail.com
Alexander H. Burke ABurke@BurkeLawLLC.com, alburke@gmail.com
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William S Boggs william.boggs@dlapiper.com, bonnie.lott@dlapiper.com,
catherine.orth@dlapiper.com

1 The documents were served by the following means:

2 (BY COURT'S CM/ECF SYSTEM) Pursuant to Local Rule, I electronically filed the
3 documents with the Clerk of the Court using the CM/ECF system, which sent notification of
that filing to the persons listed above.

4 I declare under penalty of perjury under the laws of the State of CALIFORNIA that the
foregoing is true and correct.

5 Executed on March 20, 2013, at San Diego, California.

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